



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/147,894	03/23/1999	MASAHITO TANAKA	445-271P	2395

2292 7590 03/13/2002

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER

REICHLE, KARIN M

ART UNIT	PAPER NUMBER
----------	--------------

3761

DATE MAILED: 03/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/147894

Applicant(s)

Tanaka et al

Examiner

Reehle

Group Art Unit

5761

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 10-24-01
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-3, 5-11, 19-26 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-3, 5-11, 19-26 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☒ The proposed drawing correction, filed on 10-24-01 is ☒ approved ☐ disapproved.
- ☒ The drawing(s) filed on 3-23-99 is/are objected to by the Examiner.
- ☒ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

DETAILED ACTION

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

For Example:
2. 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: page 3, line 22, page 5, amendment to line 5, line 1 thereof.

3. The disclosure is objected to because of the following informalities: 1) The Summary of the Invention, i.e. a description of the claimed invention, is not consistent in scope with claims 2-3, 5-11, 15, 20-26, See MPEP 608.01(d) and 1302.01.

Appropriate correction is required.

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the invention as claimed in claims 3, 5, 15, 20, 22-23, and 26 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

5. Claims 5, 7, 15, 20, 22-23, and 26 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Where is there support, as originally filed, e.g., page no, line no, and/or Figure No, for the combination of structure and a projecting portion as now set forth? It is noted no portion of the remarks addresses this issue.

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

8. It is noted that "barrier" is defined as "something that acts to hinder or restrict" as defined by the American Heritage Dictionary. Each of the following prior art devices includes laterally located portions which are absorbent and extend along longitudinal edges and thereby, if not explicitly described as such, inherently perform, have the capability or function as barrier cuffs.

9. Claims 1, 8, 15 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Runeman et al.

10. See Figures, i.e. toplayer, 1, back layer, 2, absorbent layer, 4, 6, barrier cuffs, 6, pocket portion, between 6, projecting portion, upper portion of 5, means for bonding, see column 3, lines 5-8, Note: does not require direct bonding, absorbent sheet, 4, absorbent pad, lower portion of 5.

Art Unit: 3761

11. Claims 1-3, 8-11, 15 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Roessler et al.

12. See Figures 3-5, i.e. top layer, 25, back layer 24, absorbent layer, 44, 50, barrier cuffs, 44 as seen in Figure 3, and see column 10, lines 23-27, pocket portion, 47, projecting portion, 21, means for bonding, column 10, lines 11-14, absorbent sheet, lower 50 alone or with 44, absorbent pad, upper 50 alone or with 44, thickness, see column 10, lines 58-60 and column 12, line 1, elastic members, column 7, line 63-column 8, line 43.

13. Claims 1, 2, 8-11, 15, 19-26 are rejected under 35 U.S.C. 102(a) as being anticipated by May.

14. See Figure 3, i.e. for claims 1, 2, 8-11, 15, 21 and 24: top layer 28, back layer 30, liquid retentive absorbent member, 300, 302 or 304 or any combination thereof and 336, see column 11, lines 25-27, barrier cuffs, 336, pocket portion, between 336, projecting portion, 304, see also, column 8, lines 50-51 and 27-45 of column 4, column 4, lines 5-10 and thereby column 10, lines 12-34 of Osborn, and column 9, line 47-column 10, line 15 and column 12, lines 7-9; for claims 19, 22 and 25: top layer, 302, back layer 30, first absorbent member, 304, second top sheet 28, second absorbent, 336, bottom layer of 300, cuffs 336, projecting portion, top layer of 300, see cited portions of May supra; claims 20, 23 and 26: top layer 302, back layer 30, first absorbent member, 304, second top sheet, 28, second absorbent, 336, bottom layers of 300, barrier cuffs, 336, pads, bottom layers of 300, projecting portion, upper layer(s) of 300, means for securing, see cited portions with respect to claims 8-11, supra.

15. Claims 1, 3, 8-11, 15, 21 and 24 are rejected under 35 USC 102(b) as being anticipated by Yoshimura et al, JP 553,

See figures 10, and 9 and page 8, first full paragraph of translation: top layer 1, back layer 2, absorbent layer 3a, 3, cuffs 3a, pocket portion, between 3a, projecting portion 3, elastic members 11, bonding means, see page 5, lines 1-8 of translation, claim 15, see Figures 9-11, page 8, first full paragraph.

16. Claims 1 and 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshimura et al in view of Canadian International.

Applicant claims the thickness of the barrier cuffs and absorbent sheet of the absorbent article, i.e. a diaper, which Yoshimura et al does not ^{teach.} However, see column 3, lines 28-52 of Canadian International. To employ the dimensions as taught by

Canadian International on the Yoshimura et al device would be obvious to ^{one of} ordinary skill in the art in view of the recognition that such would ensure efficient reception and retention of body fluids and the desirability of such by Yoshimura et al, e.g., see page 8, lines 16-20 of translation.

17. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshimura and Canadian International as applied to claim 5 above, and further in view of Roessler et al '342, Molnlycke '582 and P&G '632.

Applicants claim the composition of the absorbent sheet while ^{an} Yoshimura only teaches absorbent sheet. See, however, Canadian International, i.e. hydrophilic fiber, i.e. wood pulp, Roessler et al, column 9, line 3 – column 10, line 3 and column 10, lines 49-57 and Molnlycke, paragraph bridging pages 6-7 and P&G, page 9, lines 20-28. To make the absorbent sheet of Yoshimura et al the claimed composition would be obvious to one of ordinary skill in the art in view of the

conventionality of an interchangeability of absorbents as taught by Canadian International Rossler et al, Moynike and P&G.

18. Applicant's remarks have been carefully considered but are deemed either moot in that such remarks address issues not raised or are deemed non persuasive for the reasons set forth supra, e.g., Runeman actually shows side bodies within the edges and a pocket therebetween. Once formal drawings including all approved changes are submitted such will be reviewed by the Draftman.

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The other patents shows other barriers.

20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Application/Control Number: 09/147,894
Art Unit 3761

Page: 7
09/147,894

The changes to claims 1, 19, 20, the claims dependent from claim 1 as a result thereof and new claims 21-26 necessitated the new grounds of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin Reichle whose telephone number is (703) 308-2617. The Examiner's regular work schedule is Monday - Thursday.

K. Reichle:bhw
(703) 308-2617
March 2, 2002

09/147,894
bhw
03/02/2002
03/02/2002

[Handwritten signature]

Karin M. Reichle
Patent Examiner

K. M. Reichle
Patent Examiner

Attachment for PTO-948 (Rev. 03/01, or earlier)
6/18/01

The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. Correction of Informalities -- 37 CFR 1.85

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made other than correction of informalities, unless the examiner has approved the proposed changes.

Timing of Corrections

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

Failure to take corrective action within the set period will result in ABANDONMENT of the application.